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TEXT

TAGS: PREL, AU

SUBJECT: AIDE MEMOIRE -- WALDHEIM

EMBASSY IS REQUESTED TO DELIVER FOLLOWING AIDE MEMOIRE AT AN APPROPRIATELY HIGH LEVEL PRIOR TO THE DEPARTURE FROM VIENNA OF AMBASSADOR TUERK. THIS PAPER IS A RESPONSE TO THE AUSTRIAN AIDE MEMOIRE DELIVERED BY AMBASSADOR HOESS TO EUR PDAS RALPH JOHNSON ON JULY 6. (FOR TEXT, SEE PARAGRAPH 3.)

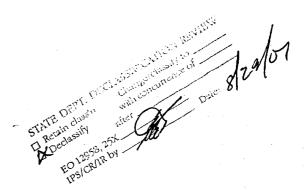
BEGIN TEXT:

AIDE MEMOIRE

THE AUSTRIAN EMBASSY IN WASHINGTON RECENTLY ASKED THAT THE "WATCHLIST" DECISION CONCERNING FORMER PRESIDENT WALDHEIM BE RECONSIDERED.

MR. WALDHEIM'S PLACEMENT UPON A "WATCHLIST" BARRING HIM ENTRY INTO THE UNITED STATES WAS THE RESULT OF A CAREFUL DETERMINATION BY THE DEPARTMENT OF JUSTICE THAT MR. WALDHEIM FALLS UNDER SECTION 212 (A) (33) OF THE

IMMIGRATION AND NATIONALITY ACT, THE SO-CALLED "HOLTZMAN AMENDMENT". IN REACHING THIS DETERMINATION, THE



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DEPARTMENT OF JUSTICE FOUND THAT AMPLE EVIDENCE EXISTS THAT MR. WALDHEIM HIMSELF, AND THE UNITS IN WHICH HE SERVED IN POSITIONS OF RESPONSIBILITY DURING WORLD WAR II, WERE ENGAGED IN PERSECUTORY ACTIVITIES COVERED BY THE HOLTZMAN AMENDMENT.

U. S. COURTS HAVE UPHELD THE VALIDITY OF THIS LAW BARRING PEOPLE WHO PARTICIPATED IN NAZI-SPONSORED PERSECUTION. THERE IS NO PROVISION IN U. S. LAW ALLOWING AN EXCEPTION TO THESE RULES. THE FACT THAT MR. WALDHEIM HAS LEFT PUBLIC OFFICE HAS NO BEARING ON THE CASE, AND THE U.S. GOVERNMENT DOES NOT INTEND TO RECONSIDER THIS DECISION.

IT SHOULD BE EMPHASIZED THAT THE U. S. GOVERNMENT'S DECISION TO PLACE MR. WALDHEIM ON A "ATCHLIST" WAS IN NO WAY DIRECTED AT THE OFFICEOF THE AUSTRIAN PRESIDENT, THE AUSTRIAN PEOPLE OR THE REPUBLIC OF AUSTRIA. WE COUNT AUSTRI AS A GOOD FRIEND WITH WHOM WE WILL WORK CLOSELY A FURTHER CHANGES DEVELOP IN WESTERN, CENTRAL AD EASTERN EUROPE.

END TEXT.

3. TEXT OF AUSTRIAN AIDE MEMOIRE:

AIDE MEMOIRE

ON APRIL 27, 1987, THE DECISION OF THE U.S. DEPARTMENT OF JUSTCE TO PLACE THE NAME OF THE FEDERAL PRESIDENT OF AUSTRIA, DR. KURT WALDHEIM, ON THE SO-CALLD WATCHLIST AND THEREBY EXCLUDING HIM FROM ENTERIG THE UNITED STATES AS A PRIVATE PERSON, WAS MDE PUBLIC.

THE AUSTRIAN FEDERAL GOVERNMENT, IN ITS DECLARATION OF APRIL 28, EXPRESSED IS DISMAY AT THAT DECISION AND STATED THAT THE ALEGATION MADE AGAINST PRESIDENT WALDHEIM ARE UNPROEN AND THEREFORE REJECTED. A RESOLUTION TO THIS EFFECT, SUPPORTING THE DECISION OF THE GOVERNMNT, WAS ALSO ADOPTED BY THE AUSTRIAN PARLIAMEN ON MAY 14, 1987.

SUBSEQUENTLY AUSTRIA HASREPEATELY FOINTED OUT IN WRITTEN AND ORAL FORM TOTHE U.S. GOVERNMENT THE REASON, WHY THE SO-CALLED WATCH LIST DECISION IS UNACCEPTABLE AND HS ASKED FOR IT REVIEW.

IN THIS CONTEXT I WAS STRESSED THAT THE DECISION OF THE U.S. EPARTMENT OF JUSTICE AND THE FROCEDURE LEADING UP T IT, IS IN VIEW OF DR. WALDHEIM'S POSITIONAS HEAD OF STATE IMCOMPATIBLE WITH INTERNATIONALLAW AND AT VARIANCE WITH FUNDAMENTAL, INTERNATONALLY RECOGNIZED HUMAN RIGHTS STANDARDS.

SINCE THEN DETAILED OFFICIAL AND UNOFFICIAL INVESTGATIONS OF PRESIDENT WALDHEIM'S WARTIME RECORDCONDUCTED UNDER CLOSE INTERNATIONAL SCRUTINY HAV COME TO THE CONCLUSION THAT THE ALLEGATIONS LEVLED AGAINST HIM ARE COMPLETELY UNFOUNDED. IN HIS CONTEXT IT IS WORTH NOTING THAT SOME

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OF THES INVESTIGATIONS HAVE BEEN INITIATED BY PRESIDENT WALDHEIM HIMSELF.

IN VIEW OF THE AUSTRIAN GOVERNMENT THIS UNPRECEDENTED AND COMPREHENSIVE EXAMINATION OF DR. WALDHEIM'S WARTIME PAST HAS ESTABLISHED BEYOND ANY REASONABLE DOUBT, THAT THE ALLEGATIONS UPON WHICH THE SO-CALLED WATCH LIST DECISION IS BASED, ARE NOT VALID.

IN ORDER TO AVOID ANY FUTURE SHADOW OF DOUBT AS REGARDS THE TRADITIONALLY CLOSE AND FRIENDLY RELATIONS BETWEEN AUSTRIA AND THE UNITED STATES THE AUSTRIAN GOVERNMENT ONCE MORE ASKS THAT THE SO-CALLED WATCH LIST DECISION BE RECONSIDERED IN THE LIGHT OF THE FOREGOING ARGUMENTS.

WASHINGTON, D.C. JULY 6TH, 1992

END TEXT OF AUSTRIAN AIDE MEMOIRE. EAGLEBURGER

ADMIN END OF MESSAGE

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